

EPA Region 5 Records Ctr.



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June 15, 2004

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Thomas Krueger, Esquire  
Multi-Media Branch II, Section I  
United States Environmental Protection Agency  
77 West Jackson Boulevard  
Mail Code C14-J  
Chicago, IL 60604

Re: Eagle Zinc Company Site

Dear Mr. Krueger:

Pursuant to the schedule agreed upon at our meeting on June 2, 2004, the purpose of this letter is to communicate the Respondents' agreement to add on-site risks to the draft ecological risk assessment report. Respondents condition this agreement on the procedures outlined in "Approach for Assessment of On-Site Ecological Receptors at the Eagle Zinc Site" (June 7, 2004) authored by Ryan Loveridge and Steve Petron of CH2M Hill (hereinafter "Approach Memo"), as those procedures have been clarified and/or revised by mutual agreement of the parties. Specifically, on June 11, 2004, Mr. Loveridge and Jeff Margolin of Environ agreed to the following revisions to the Approach Memo:

1. Conservative food web modeling will be conducted prior to Step 3a of the ecological risk assessment. Further, food web modeling using realistic, reasonable exposure scenarios will be conducted, as necessary, as part of Step 3a.
2. Contrary to the U.S. EPA letter dated May 3, 2004, the on-site ecological risk assessment need only evaluate one use scenario: "status quo." Therefore, the current exposure scenarios will be considered the same as (and representative of) potential future exposure scenarios.
3. The on-site ecological risk assessment of aquatic receptors will evaluate the same scenarios/receptors as evaluated for the off-site ecological risk assessment. Specifically, the evaluation will consist of comparisons to surface water quality criteria, sediment quality criteria, and quantitative food web-type evaluations of mink and great blue herons.
4. If it is agreed by the parties that the on-site ecological risk assessment will include an evaluation of risk related to the manufacturing residues, then realistic exposure scenarios based on, inter alia, the physical properties of the residues, will be considered in Step 3a to determine whether further evaluation of the residues is warranted.

Representatives of U.S. EPA and Respondents have not yet concluded their discussions concerning the procedures to be employed in the on-site ecological risk assessment. Accordingly, Respondents also condition their agreement on any further clarifications of and/or revisions to the Approach Memo or U.S. EPA's letter dated May 3, 2004 that might occur either before or as a result of Respondents' responses to U.S. EPA's letter dated May 3, 2004. Based on the agreements reached at our meeting on June 2, 2004, Respondents understand that their responses to U.S. EPA's letter dated May 3, 2004 are due July 13, 2004.

Respondents T.L. Diamond and Company, Inc. and Eagle-Picher Industries, Inc. agree to the proposed revision of Section XIX of the Administrative Order by Consent (eff. date December 21, 2001) outlined in your letter dated June 8, 2004, as modified by your e-mail memo dated June 10, 2004. The Sherwin Williams Company has not yet responded to our request for agreement to the proposed revision.

Finally, attached for U.S. EPA's consideration is a draft deed restriction that would limit use of the subject property to industrial and/or commercial purposes. We reserve the right to propose revisions to that draft either in response to comments from U.S. EPA or comments from our client, who has not yet seen the attached.

Very truly yours,

John M. Ix  
Associate

Jl/drv

Attachment

cc: Mr. Paul Harper (via E-mail only)  
Mr. Gordon Kuntz (via E-mail only)  
Lois Kimbol, Esq. (via E-mail only)  
Michael Bogdonoff, Esq. (via E-mail only)  
Mr. F. Ross Jones (via E-mail only)  
Mr. Dion Novak (via E-mail only)